

No. 10,729

IN THE
United States Circuit Court of Appeals
For the Ninth Circuit

ZEILA BARR,

Appellant,

VS.

THE EQUITABLE LIFE ASSURANCE SOCIETY
OF THE UNITED STATES,

Appellee.

Upon Appeal from the District Court of the United States for
the Northern District of California, Southern Division.

BRIEF FOR APPELLEE.

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FILED

DEC 21 1940

PAUL P. O'BRIEN,

CLERK

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BRIEF FOR APPELLEE.

JURISDICTIONAL STATEMENT.

This is an action at law,¹ between a citizen of California and a citizen of New York.² The matter in controversy exceeds \$3,000.³ It was filed in the state court,⁴ and removed to the District Court.⁵ The District Court had jurisdiction.⁶ This Court has jurisdiction on appeal.⁷

¹R. 2.

²R. 13-14.

³R. 5.

⁴R. 6.

⁵R. 13.

⁶Judicial Code, section 24; U. S. Code, Title 28, section 41, subdivision 1; Judicial Code, section 28; U. S. Code, Title 28, section 71.

⁷Judicial Code, section 128; U. S. Code, Title 28, section 225.

STATEMENT OF THE CASE.

Plaintiff seeks to recover as beneficiary under a life insurance policy⁸ the increased amount, payment for which is there provided on death from accident. Dr. Barr, the insured, died of "acute bronchial pneumonia,"⁹ "virus pneumonia,"¹⁰ "an atypical type of pneumonia."¹¹ Plaintiff claims this pneumonia resulted from "Rickettsia bodies" in the lungs,¹² introduced into Dr. Barr's body by a bite¹³ of a tick, "Dermacentor andersoni."¹⁴ Plaintiff's effort was to show that Dr. Barr had "Rocky Mountain spotted fever."¹⁵ Plaintiff produced seven experts. Dr. Moody represented plaintiff at the autopsy.¹⁶ He thought the history of the tick's bite had no connection with the virus pneumonia.¹⁷ Dr. Merrill tested a sample of Dr. Barr's blood, at the request of plaintiff's doctor,¹⁸ looking for plague, tularemia and Rocky Mountain spotted fever.¹⁹ All tests were negative.²⁰ Dr. Eaton worked on the same sample²¹ and some tissue sections. He found no Rickettsia.²² He declined to say he would associate the tick bite with the death, saying "There haven't been any cases of Rocky Mountain spotted fever that died in two

⁸R. 7.

⁹Proof of Death, Attending Physician's Statement, R. 25.

¹⁰Dr. Eaton, T. R. 135 (The reference is to Reporter's Transcript in No. 10,728.)

¹¹Dr. Moody, T. R. 174.

¹²Opening Statement, T. R. 41.

¹³Opening Statement, T. R. 37.

¹⁴Opening Statement, T. R. 40.

¹⁵T. R. 217, 218, 220-221.

¹⁶T. R. 164.

¹⁷T. R. 190.

¹⁸T. R. 105.

¹⁹T. R. 109.

²⁰T. R. 110.

²¹T. R. 134.

²²T. R. 135.

or three days with a pneumonia of this type.’’²³ Dr. Meyer examined sections of the lung.²⁴ He could not say they showed Rickettsia.²⁵ Dr. Briggs examined Dr. Barr June 2nd,²⁶ two days after the alleged tick bite. He found no tick bite.²⁷ Professor Herms was called to identify a tick plaintiff had sent him. He had no recollection.²⁸ Dr. Marston alone tried to support plaintiff’s theory. We discuss his testimony in detail hereafter.²⁹ Other experts had worked for plaintiff on the case, but were not called. One of them was Dr. Reed, who attended Dr. Barr June 5th, the day before he died.³⁰ What must have been his views are reflected by the contemporary view of Dr. Marston, his associate, “I did not know the exact cause of death outside of the bronchial pneumonia.”³¹ Dr. Fogarty examined X-rays of Dr. Barr’s chest.³² His conclusion was “widespread pneumonia of the influenzal type.” Dr. Berger performed the autopsy for plaintiff.³³ His findings were “Consolidated patches both lungs.”³⁴ He says nothing of Rocky Mountain spotted fever, nothing of Rickettsia, nothing of a tick bite, nothing of *Dermacentor andersoni*. The tick that is supposed to have bitten Dr. Barr cannot be identified. Even Nave claims to have

²³T. R. 139.

²⁴T. R. 151.

²⁵T. R. 156.

²⁶T. R. 63.

²⁷T. R. 65, 74-75.

²⁸T. R. 206.

²⁹Infra, pp. 7-10.

³⁰Proof of Death, R. 22.

³¹T. R. 215.

³²T. R. 213.

³³T. R. 163.

³⁴Proof of Loss, Attending Physician’s Statement, R. 25.

seen “just his back end.”³⁵ Nave describes other ticks.³⁶ If the description of *Dermacentor andersoni* is within the judicial knowledge of the Court, then the Court knows that Nave’s descriptions do not fit it. On the other hand, if the Court does not know judicially the characteristics of this species, plaintiff’s proof simply fails. Plaintiff’s brief asserts “The tick was of the species known as the *Dermacentor andersoni*.”³⁷ Plaintiff refers to no evidence supporting this assertion. There is none. The evidence does not identify any tick as *Dermacentor andersoni*. Plaintiff’s assertion is astutely ambiguous. Grammatically it refers to the tick mentioned in plaintiff’s preceding paragraph ultimately supposed to have reached Professor Herms.³⁸ The professor had no recollection and did not identify the tick. In any event, the point in this case is not the identification of the tick supposed to have been sent Professor Herms, but that of the tick supposed to have bitten Dr. Barr. Whatever the scientific name may be of the guilty tick, of course there was no evidence that that particular tick was infected.

When plaintiff rested, the Court dismissed the action.³⁹

Plaintiff appeals.

³⁵T. R. 83.

³⁶T. R. 80, 95, 98, 100-101, Pl. Ex. A.

³⁷Op. Br., p. 15.

³⁸Supra, p. 3.

³⁹Rule of Civil Procedure 41 (b).

SUMMARY OF THE ARGUMENT.

1. The dismissal was on the merits.⁴⁰ Testimony of plaintiff's own witnesses amply supports the judgment for defendant.

2. For the moment granting plaintiff's contention that the dismissal was in the nature of a nonsuit, that disposition of the case was proper. There was no substantial evidence to support plaintiff's claim. Properly analyzed, the testimony of Dr. Marston affords no substantial support.

ARGUMENT.

1. THE JUDGMENT WAS ON THE MERITS AND CORRECT.

It is settled that a judgment under Rule 41 (b) is to be affirmed on conflicting evidence, so long as there is substantial evidence to support the judgment.⁴¹ The only possible distinction between the *Young* case and the case at bar is that the *Young* case was filed in the District Court, while the case at bar was filed in the state court and removed to the District Court. The distinction is unsubstantial. The Rules of Civil Procedure apply equally to actions at law removed to the District Court.⁴²

As we have seen,⁴³ the evidence in this case, from plaintiff's own witnesses, is ample to support the judgment. Plaintiff relies exclusively on one expert, Dr.

⁴⁰Rule of Civil Procedure 41 (b);

Young v. United States, 111 F.(2d) 823, 825.

⁴¹*Young v. United States*, 111 F. (2d) 823, 825.

⁴²Rule 81 (e).

⁴³*Supra*, pp 2-4.

Marston.⁴⁴ Five of plaintiff's experts testified unfavorably to plaintiff's contentions. Three experts employed by plaintiff and not produced are disclosed to have had opinions opposed to plaintiff's contentions. Plaintiff's own brief does not claim that there was not sufficient evidence against plaintiff's contentions. It claims merely that Dr. Marston's testimony was a scintilla of evidence in favor of plaintiff, and urges the erroneous legal proposition that dismissal was, therefore, improper.

Plaintiff cites three decisions of the Supreme Court of the United States⁴⁵ as holding that federal courts follow state law. These authorities, and the opposing one appellant also cites,⁴⁶ all deal with questions of substantive right as opposed to matters of procedure. Since the enactment of the Rules of Civil Procedure under the Act of Congress authorizing them, there has been no question about their efficacy to govern procedure of the District Court in the matters that they cover. The Federal cases cited by plaintiff⁴⁷ have no bearing on the point. The two state cases cited⁴⁸ deal with no question either of federal procedure or the applicability of state law to federal procedure. The numerous California cases cited⁴⁹ purport to deal only with motions for nonsuit. No nonsuit

⁴⁴*Infra*, pp. 7-10.

⁴⁵*Erie R. Co. v. Tompkins*, 304 U.S. 64; Appellant's Brief, p. 34; *Meredith v. Winter Haven*, 320 U.S. 228; Appellant's Brief, p. 34;

Hawkins v. Barney, 5 Pet. 457, 464; Appellant's Brief, p. 35.

⁴⁶*Swift v. Tyson*, 16 Pet. 1.

⁴⁷*Supra*.

⁴⁸*Brown v. Beck*, 63 Cal. App. 686; Appellant's Brief p. 34;

Miller v. Director General of Railroads, 270 Pa. 330; Appellant's Brief, p. 34.

⁴⁹Appellant's Brief, pp. 35-40.

was granted in the instant case. No motion for nonsuit was made in the instant case. The citations are inapplicable.

2. THERE WAS NO SUBSTANTIAL EVIDENCE TO SUPPORT PLAINTIFF'S CASE.

Essentially plaintiff's argument is based upon two passages in the testimony of Dr. Marston. They are printed in blackfaced type in plaintiff's abstract, "I felt that it was most likely due to tick bite;"⁵⁰ "All of the symptoms * * * indicative of Rocky Mountain spotted fever."⁵¹ Other portions of the record require such qualification of this testimony as to destroy its effect.

On cross-examination Dr. Marston himself qualified his theory. Asked whether he would alter his diagnosis if Dr. Barr's body showed no "proliferations of the endothelium," he thought that bore some weight, and certainly would have an effect, adding "if it is a proven fact that you always find this proliferation in Rocky Mountain spotted fever, that is, in the terminal blood vessels, and if there were none there, why, of course, it would alter my opinion."⁵² Plaintiff's own expert explained the affinity of Rickettsia for these blood vessels,⁵³ causing first proliferation and subsequently destruction of the cells, blood clots, clogging of the blood vessels and escape of blood.⁵⁴ The latter is a partial explanation of the

⁵⁰T. R. 216; Appellant's Brief p. 13.

⁵¹T. R. 220; Appellant's Brief p. 14.

⁵²T. R. 232-233.

⁵³Dr. Moody, T. R. 186-187.

⁵⁴Dr. Moody, T. R. 187.

“petechial”⁵⁵ spots, characteristic of the disease, from which it takes its popular name. Dr. Moody could not find this condition in Dr. Barr’s arteries. He “did not have the blood vessel condition that is common to Rocky Mountain spotted fever.”⁵⁶ Dr. Eaton concurred.⁵⁷ If Dr. Marston had known what these experts knew, then, as he said, “it would alter my opinion.”⁵⁸

The opinion Dr. Marston expressed at the trial was not the one he held during the illness and on which he acted then. Dr. Marston did not treat Dr. Barr for Rocky Mountain spotted fever. He says he made a report to the Board of Health “before Dr. Barr’s death,”⁵⁹ that “I did not know the exact cause of death outside of bronchial pneumonia.”⁶⁰ June 26, 1942, even three weeks after the death, Dr. Marston certified the Attending Physician’s Statement.⁶¹ The answer to question 6 (a) gives “acute bronchial pneumonia” as the cause of death. The answer to question 6 (c) says no disease or impairment was a contributory cause. Question 8 asks whether death was due to accident. The answer is “Unknown.” A later portion of the same question is answered “was bitten by a wood tick about 5/31/42 in an area that has reported Rocky Mountain spotted fever.” On June 26th, then, the best of Dr. Marston’s knowledge, recollection and belief did not permit him to say that the tick bite caused the disease or that Dr. Barr had Rocky Mountain spotted

⁵⁵T. R. 188.

⁵⁶T. R. 188.

⁵⁷T. R. 144.

⁵⁸T. R. 233.

⁵⁹T. R. 214.

⁶⁰T. R. 215.

⁶¹R. 25.

fever. July 3, 1942, Dr. Marston signed the Death Certificate.⁶² In this instrument Dr. Marston gave "acute bronchial pneumonia" as the cause of death. Question 23 of this form specifically directs that "If death was due to external causes fill in the following." Dr. Marston did not fill in the following. During the illness and for a month afterwards Dr. Marston did not believe in the theory to which he testified at the trial.⁶³

Dr. Marston never had any experience with Rocky Mountain spotted fever. What he says about it is based solely on reading⁶⁴ since Dr. Barr's death⁶⁵ eight or ten articles.⁶⁶ When he expressed his opinion he had not seen the pathologist's report.⁶⁷ "I am not too clear on that; I am not an expert on pathology."⁶⁸ Dr. Marston thus disqualified his opinion as evidence.

During the disease Dr. Marston examined Dr. Barr for "petechial" spots and found none.⁶⁹ These are "the only helpful clinical manifestations"⁷⁰ of Rocky Mountain spotted fever. In Rocky Mountain spotted fever the white blood count runs between 8,000 and 12,000 higher. Dr. Barr had only 2,800.⁷¹ In Rocky Mountain spotted fever "the spleen, as a rule, is enlarged and tender * * * and palpable."⁷² Dr. Marston could not palpate the spleen of Dr.

⁶²Def. Ex. B. Since it is unprinted in the record, we append a printed copy.

⁶³T. R. 223-224.

⁶⁴T. R. 221, 222, 224.

⁶⁵T. R. 224.

⁶⁶T. R. 238.

⁶⁷T. R. 230.

⁶⁸T. R. 231.

⁶⁹T. R. 220.

⁷⁰T. R. 235.

⁷¹T. R. 236.

⁷²T. R. 236.

Barr.⁷³ At the autopsy he noted that the spleen was not enlarged.⁷⁴ These circumstances enforced Dr. Marston's contemporary opinion that Dr. Barr died of pneumonia, rather than of Rocky Mountain spotted fever. Dr. Marston's subsequent desire to change his opinion requires him to disregard these recognized tests of the disease.

The symptoms given by Dr. Marston upon which he based his conclusion that Dr. Barr had Rocky Mountain spotted fever, are "the abruptness of the onset, the mental confusion, nervousness, extreme pains, incubation period of approximately three or four days";⁷⁵ "markedly confused, restless, dehydrated, extreme pain all over his body."⁷⁶ Upon cross-examination Dr. Marston made it clear that the course of the disease and its manifestations were those to be found in any influenzal pneumonia, any serious, sudden fever.⁷⁷ In all, Dr. Barr's case presented some features inconsistent with Rocky Mountain spotted fever,⁷⁸ and some consistent with Rocky Mountain spotted fever, but equally consistent with the diagnosis of Dr. Barr's case made by plaintiff's seven other experts, "acute bronchial pneumonia." At the time, Dr. Marston concurred with the others. At the trial he advanced his new theory of Rocky Mountain spotted fever, without any knowledge of that disease.⁷⁹ When additional circumstances of the case were called to his attention, he said simply that that would alter his opinion.⁸⁰

⁷³T. R. 236.

⁷⁴T. R. 236.

⁷⁵Op. Br., p. 13; T. R. 216.

⁷⁶Op. Br., p. 14; T. R. 220.

⁷⁷T. R. 223.

⁷⁸Supra, pp. 9-10.

⁷⁹Supra, p. 9.

⁸⁰Supra, p. 8.

Such testimony affords not even a scintilla, certainly not substantial evidence, in support of plaintiff's theory.

This appeal presents primarily questions of fact. Only one principle of law is involved, that of the *Young* case.⁸¹ Plaintiff does not cite the decision, does not discuss the principle involved. Under that decision the District Court simply had to find as a fact whether Dr. Barr died from an accident. It accepted the testimony of the majority of plaintiff's experts, and found this factual issue against plaintiff.

On the other hand, if the *Young* case is to be rejected and the District Court's ruling to be assimilated to a non-suit, the factual question is whether, taking it all together, Dr. Marston's testimony presented the positive opinion of a qualified expert in support of the theory of accidental death. We have shown that Dr. Marston's testimony does not come up to this requirement. As the Court said:

"Doctor Marston, the witness who offered the strongest grounds on your behalf, if they exist, admitted an unfamiliarity with the thing, but that from what he read, if the man had been bitten by a tick, it was likely that that was the cause of death. But I can't see my way clear to say that that is a sufficient showing of the necessary facts."⁸²

"* * * I am convinced that there isn't any evidence at all that sustains the burden of proof, much as I would like to find, frankly, some evidence to support

⁸¹Supra, p. 5.

⁸²T. R. 274.

the plaintiff's claim in this case; but it just does not square with my conscience that any of those facts have been proved.''⁸³

The District Court had the advantage of seeing the demeanor of the witnesses and hearing their oral testimony. This Court does not revise the action of the District Court on such factual issues.

It is respectfully submitted that the judgment should be affirmed.

Dated, San Francisco,
February 19, 1945.

FELIX T. SMITH,
FRANCIS R. KIRKHAM,
WILLIAM H. MACKAY,
Attorneys for Appellee.

(Appendix Follows.)

⁸³T. R. 275.

Appendix.

WRITE PLAINLY WITH UNFADING BLACK INK—THIS IS A PERMANENT RECORD

Read Instructions on Back

VITAL STATISTICS

Exhibit No. 73
 Filed Nov. 3, 1943

U. S. DEPARTMENT OF COMMERCE
 BUREAU OF THE CENSUS

(Signature)

1. FULL NAME Dr. Arthur Barr

2. PLACE OF DEATH: (A) COUNTY Marin
 (B) CITY OR TOWN San Rafael
 (C) NAME OF HOSPITAL OR INSTITUTION Cottage Hospital
 IF NOT IN HOSPITAL OR INSTITUTION, GIVE STREET NUMBER OR LOCATION
 (D) LENGTH OF STAY: (SPECIFY WHETHER YEARS, MONTHS OR DAYS)
 IN HOSPITAL OR INSTITUTION 2 Days
 IN THIS COMMUNITY Life IN CALIFORNIA Life
 (E) IF FOREIGN BORN, HOW LONG IN THE U. S. A? _____ YEARS

3. (a) IF VETERAN, NAME OF WAR Yes 3. (F) SOCIAL SECURITY NO No

4. SEX Male 5. COLOR OR RACE White 6. (a) SINGLE, MARRIED, WIDOWED OR DIVORCED Married

6. (b) NAME OF HUSBAND OR WIFE Zeila E. Barr 6. (c) AGE OF HUSBAND OR WIFE IF ALIVE 42 YEARS

7. BIRTHDATE OF DECEASED August 15 1890

8. AGE 51 YRS 9 MOS 20 DAYS IF LESS THAN ONE DAY OLD

9. BIRTHPLACE San Rafael, Calif.

10. USUAL OCCUPATION Dentist

11. INDUSTRY OR BUSINESS _____

12. NAME William Barr

13. BIRTHPLACE Scotland

14. MAIDEN NAME Amelia J. Lang

15. BIRTHPLACE Canada

16. (a) INFORMANT Keith Ferguson
 (b) ADDRESS 311 California st. San Francisco

7. (a) Entombment (b) DATE 6-8-42
 (c) PLACE Temple's Mausoleum
 (d) ENHANCEMENT SIGNATURE Wm. V. Keaton LICENSE NO. 1885
 (e) FUNERAL DIRECTOR Keaton's Mortuary
 ADDRESS San Rafael, Calif.
 BY Jas. T. Pedmond

19. (a) 7-6-42 (b) Harry O. Hund MD

DISTRICT NO. 2101 REGISTRAR'S NO. 62

3. USUAL RESIDENCE OF DECEASED:
 (A) STATE California
 (B) COUNTY Marin
 (C) CITY OR TOWN San Rafael
 IF OUTSIDE CITY OR TOWN LIMITS, WRITE RURAL
 (D) STREET NO. Forbes Ave. & I street

20. DATE OF DEATH: MONTH June DAY 6
 YEAR 1942 HOUR 4 MINUTE 15 AM

21. MEDICAL CERTIFICATE
 I HEREBY CERTIFY THAT I ATTEMPTED
 THE DECEASED FROM June 4, 1942
 TO June 6, 1942
 THAT I LAST SAW HIM ALIVE
June 6, 1942
 AND THAT DEATH OCCURRED ON THE DATE
 AND HOUR STATED ABOVE.

22. CORONER'S CERTIFICATE
 I HEREBY CERTIFY THAT I HAVE
 AUTOPSY, INQUIRY OR INVESTIGATION
 ON THE REMAINS OF THE DECEASED AND
 FROM SUCH ACTION THAT DECEASED CAUSE
 OF DEATH ON THE DATE ABOVE.

IMMEDIATE CAUSE OF DEATH Acute bronchial
Pneumonia 2 Days

OTHER CONDITIONS
 (INCLUDE PREGNANCY WITHIN THREE MONTHS OF DEATH)

MAJOR FINDINGS
 OF OPERATIONS _____ DATE OF OPERATION _____

OF AUTOPSY _____

23. IF DEATH WAS DUE TO EXTERNAL CAUSES, FILL IN THE FOLLOWING
 (a) ACCIDENT, SUICIDE, OR HOMICIDE? _____ (b) DATE OF INJURY _____
 (c) WHERE DID INJURY OCCUR? _____ CITY OR TOWN _____ COUNTY _____ STATE _____
 (d) DID INJURY OCCUR IN OR ABOUT HOME, OR FARM, IN INDUSTRIAL PLACE
 PUBLIC PLACE? _____ SPECIFIC TYPE OF PLACE _____ WHILE AT WORK? _____
 (e) MEANS OF INJURY _____

24. CORONER'S OR PHYSICIAN'S SIGNATURE Homer E. Marston, MD
 (SPECIFY WHICH) San Rafael DATE 7-3-42

STATE OF CALIFORNIA
 DEPARTMENT OF PUBLIC HEALTH

CERTIFICATE OF DEATH

U. S. DEPT. OF COMMERCE
 BUREAU OF THE CENSUS

INSTRUCTIONS

- (1) Write with unfading black or blue-black ink. No other inks are acceptable. Certificates may be clearly typewritten. Every item of information should be carefully supplied.
 - (2) Age should be stated exactly. If definite date of birth is not known, the age should be stated as nearly as possible.
 - (3) This certificate must bear the actual signature of the physician or coroner, the person filing the certificate for the funeral home, and the local registrar.
 - (4) **Occupation.**—Precise statement of occupation is very important, so that the relative healthfulness of various pursuits may be known. An entry should be made in this section for every person aged 10 years or over. If the deceased has retired from business, the occupation prior to retirement should be reported. Children not gainfully employed may be returned as at school or at home. For a woman whose only occupation was that of home housework, the entry should be housewife. For a person who had no occupation the entry should be none.
 - In stating the occupation, avoid the use of such indefinite terms as "employee," "worker," "operative," etc. The particular kind of work done should be stated clearly as operator, weaver, etc.
 - In stating the industry or business the use of such general terms as "store," "factory," "mill," etc., should be avoided. The particular kind of store, factory, mill, etc., should be stated as grocery store, soap factory, cotton mill, etc.
 - The different kinds of engineers should be carefully distinguished by giving the full descriptive title, as civil engineer, mechanical engineer, mining engineer, stationary engineer, etc. The term "laborer" should be avoided when a more precise statement of the occupation can be secured. The word "mechanic" should not be used but the exact occupation, as carpenter, painter, machinist, etc. A careful distinction should be made between retail merchants and wholesale merchants. The term "clerk" without qualification, should always be avoided. A person who sells goods should be called a salesman. A stenographer, typist, accountant, bookkeeper, cashier, etc., should be reported as such, never as a "clerk."
 - (5) **Physician's Statement of Cause of Death.**—The morbid conditions relating to death are divided on the certificate into two groups. In Group I are those related to the "Immediate Cause" of death, and in Group II, those not causally related thereto. In most cases a statement of cause under Group I will suffice. Detailed certification is not desired, the entry of a single cause being preferable in all cases where this can be regarded as adequate (see Example 1), but where the physician finds it necessary to record more than one cause it is important that these be stated in the position provided on the form as indicative of their mutual relationship. This information is sought so that the selection of the cause for tabulation may be made in the light of the certifier's viewpoint:—
 - (a) Name first the "Immediate Cause" of death, *i.e.*, the disease, injury or complication which caused death (not mode of dying or terminal condition).
 - (b) Then give other morbid conditions (if any) of which it was the consequence, in order of causal relationship (due to) stating the most recent one first and then others in order.
 - (c) Entries under Group II should be reserved for "other important contributory morbid conditions" in those instances particularly in which death was due to a combination of malaises, none of which would have been fatal alone. In such cases the physician's judgment alone can afford guidance to the tabulator.
 - (d) Use always accepted terms for morbid conditions and never record mere symptoms.
 - (e) **Maternal Deaths.**—Qualify all diseases resulting from childbirth, miscarriage or abortion by the word "Puerperal," *e.g.*, puerperal septicemia. Distinguish between septicemia originating in abortion and in childbirth.
 - (f) **Cancer.**—In all cases the organ or part first affected should be specified.
 - (g) **Violent Deaths.**—Coroners, medical examiners and physicians who certify to deaths from violent causes should always clearly indicate the fundamental distinction of whether the death was due to accident, suicide or homicide, and then state the manner and nature of injury. The circumstances of each accident should be stated as fully as possible, *e.g.*, an automobile accident should always be designated as such.
- The following examples illustrate the essential principles in the use of the form.

I	Example 1	Example 2	Example 3	Example 4	Example 5
Immediate Cause	(a) Lobar pneumonia	(a) Pulmonary tuberculosis	(a) Acute peritonitis	(a) Bronchopneumonia	(a) Uremia
Morbid Conditions, if any, giving rise to immediate cause (insert in order preceding backwards from immediate cause).	due to (b) —	due to (b) —	due to (b) Acute appendicitis	due to (b) Operation	due to (b) Chronic nephritis
	due to (c) —	due to (c) —	due to (c) —	due to (c) Strangulated inguinal hernia	due to (c) —
	II —	II —	II —	II Chronic interstitial nephritis	II Chronic bronchitis
Other morbid conditions (if important) contributing to death but not causally related to immediate cause.					

STATE OF CALIFORNIA

State of California } ss.
County of Marin }

F. D. BURROWS

I, ~~MARK R. BURROWS~~ County Recorder in and for said County and State, hereby certify that the above and foregoing as hereunto annexed, is a full, true and correct copy of an Instrument of Record in my office, as the same appears recorded

in Liber. 18 of Certificate Deaths

Page 21

of Marin County Records, and that the copy has been compared by me with the original, and is a correct transcript therefrom and of the whole of said original record.

WITNESS MY HAND and Official Seal this 27th day of Oct. A. D. 1942

F. D. BURROWS, ~~MARK R. BURROWS~~
County Recorder

Nº 4155

By *[Signature]* Deputy Recorder

